

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

CHARDONNAY/CLUB SHAKESPEARE, INC.,

No. 04-10986

Debtor(s).

Memorandum Applications for Compensation

The court has reviewed the fee applications and has no problems with them, except as follows:

1. The court cannot rule on the application of counsel for the Creditors' Committee at this time, because it does not know the dividend to unsecured creditors. If the unsecured creditors end up receiving no dividend, the court will have to go back and determine if and when this became apparent to counsel, after which compensation may not be appropriate.

2. There is no such thing as a miscellaneous expense. Either it is itemized and documented or it is not a proper charge against the estate. No miscellaneous expenses will be approved.

If there are no objections, the fee applications will be approved subject to the above exceptions. Travel to Santa Rosa does not appear necessary.


HOWEVER, with the possible exception of the real estate broker it does not appear that the court can authorize any payment whatsoever at this time. The court is concerned that there will be insufficient funds in the estate to entice the unsecured creditors to vote for a plan, or they may be deemed to reject the plan if there is no provision for them. The court has no way of knowing at this time what Chapter 7

1 administrative expenses might be, and those expenses will have priority over the applications now
2 pending. This situation highlights the risk of liquidating an estate in Chapter 11 without benefit of a
3 confirmed plan.

4 For the foregoing reasons, unless the court is persuaded to make some other ruling it will enter an
5 order approving all the applications, except as noted above, but will order that payment be made only
6 upon confirmation of a plan or final distribution in Chapter 7.

7 Dated: December 20, 2005

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Alan Jaroslovsky
U.S. Bankruptcy Judge